

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

THOMAS A. BOWMAN,)	
Individually and as Next of Kin of)	
LEE W. BOWMAN, Deceased,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:08-CV-37
)	(VARLAN/GUYTON)
BULKMATIC TRANSPORT COMPANY, INC.,)	
and the Personal Representative of the)	
ESTATE OF JEFFREY W. RICHIE, Deceased.)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This civil action is before the Court on Bulkmatic's Motion for Bifurcated Trial, filed by defendant Bulkmatic Transport Company, Inc. ("Bulkmatic") [Doc. 78], in which defendant Bulkmatic request that the Court bifurcate the trial in this matter into a liability and the right to recover punitive damages phase, and a separate punitive damages determination phase. Plaintiff has responded [Doc. 80] that, in light of the authority cited by defendant Bulkmatic in its motion, plaintiff does not object to the bifurcation.

In support of their motion, defendant Bulkmatic relies upon the Tennessee Supreme Court's ruling in *Hodges v. S.C. Toof & Co.*, 833 S.W.2d 896 (Tenn. 1992). *Hodges* states:

In a trial where punitive damages are sought, the court, upon motion of defendant, shall bifurcate the trial. During the first phase, the factfinder shall determine (1) liability for, and the amount of, compensatory damages and (2) liability for punitive damages in accordance with the standards announced above. During this phase, evidence of a defendant's financial affairs, financial condition, or net worth is not admissible.

If the factfinder finds a defendant liable for punitive damages, the amount of such damages shall then be determined in an immediate, separate proceeding.

Id. at 901.

Plaintiff's complaint and amended complaint assert a claim for punitive damages [*see* Docs. 1, 24]. Accordingly, because this is a case in which punitive damages are sought, the Court will bifurcate the trial into one phase to determine liability for, and the amount of, compensatory damages, and liability for punitive damages and, if the jury finds defendant Bulkmatic liable for punitive damages, an immediate and separate second phase in which the amount of such punitive damages will be determined.

The Court finds that Bulkmatic's Motion for Bifurcated Trial [Doc. 78] is well-taken and it is hereby **GRANTED**. The Court will try this case in two phases as discussed herein.

IT IS SO ORDERED.

s/ Thomas A. Varlan

UNITED STATES DISTRICT JUDGE